

AMENDED IN ASSEMBLY MAY 5, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 853

Introduced by Assembly Member Arambula

February 26, 2009

An act to add ~~Section~~ *Sections 56375.6 and 56375.7* to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 853, as amended, Arambula. Local government: organization.

The Cortese-Knox-Hertzberg Act of 2000 governs the organization and reorganization of local governmental entities, including, among other things, the annexation of island territories to a city or county.

This bill would provide procedures for annexing unincorporated fringe communities ~~and unincorporated island communities~~, as defined, to a city under specified circumstances, *including provisions for a revenue neutrality agreement between the affected local government entities*.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 56375.6 is added to the Government
2 Code, to read:
3 56375.6. (a) As used in this section, ~~the following terms have~~
4 ~~the following meanings:~~

1 (1) ~~“Unincorporated~~ *“unincorporated fringe community”* means
2 any ~~settled inhabited~~, unincorporated area that is within 1.5 miles
3 of a ~~municipality city~~ or within or adjacent to a ~~municipality’s~~
4 ~~city’s~~ sphere of influence.

5 (2) ~~“Unincorporated island community” means a settled~~
6 ~~unincorporated area that is adjacent to one or more municipalities~~
7 ~~and is surrounded by a municipality or property owned by the state~~
8 ~~or undevelopable land, including, but not limited to, a state or~~
9 ~~federal park or wilderness preserve, an ocean, river, lake, or~~
10 ~~canyon, a major industrial land use, a public works installation, a~~
11 ~~landfill, or agricultural land subject to a Williamson Act contract.~~

12 (b) The board of *supervisors* shall petition the commission in
13 the board’s county to approve the annexation to a city of any island
14 or fringe community after notice and hearing if ~~both all~~ of the
15 following conditions exist:

16 (1) Twenty-five percent of the registered voters or landowners
17 in the unincorporated territory file a petition with the board to
18 initiate an annexation of that community to a municipality.

19 (2) The territory contained in the annexation petition constitutes
20 an ~~unincorporated~~ island or constitutes an unincorporated fringe
21 ~~that does not have access to adequate wastewater or drinking water~~
22 ~~services or infrastructure.~~ *community that lacks wastewater,*
23 *drinking water services, storm drainage, paved streets, sidewalks,*
24 *or streetlights, or there exists a serious infrastructure-related*
25 *health hazard.*

26 (3) *The territory that is the subject of the annexation petition*
27 *constitutes a disadvantaged community, as defined by Section*
28 *79505.5 of the Water Code. Income evidence may be provided by*
29 *a community household survey.*

30 (c) Notwithstanding any other provision of law, *within 180 days*
31 *of a petition being mailed pursuant to subdivision (b),* a separate
32 property tax transfer agreement shall be agreed to between the
33 annexing city and the county pursuant to Section 99 of the Revenue
34 and Taxation Code. *If an agreement is not made within 180 days,*
35 *a property tax transfer agreement shall be determined pursuant*
36 *to Section 36375.7.* That agreement shall not affect any existing
37 master tax sharing agreement between the city and county.

38 (d) The commission shall approve, after notice and hearing, the
39 *annexation, and as needed, the* change of organization or
40 reorganization of a city, subject to subdivision (a) of Section ~~57080~~

1 57080, unless the commission finds, based on the preponderance
2 of evidence, that the change in reorganization will not result in a
3 net benefit to the public health of the affected communities. The
4 financial impact of the annexation shall not be a factor in this
5 determination.

6 (e) Subject to the commission's approval of an annexation under
7 this subdivision, no affected special district shall have the authority
8 to terminate the annexation.

9 (f) Subject to the commission's approval of an annexation under
10 this subdivision, the city shall amend its general plan to ensure the
11 that the annexation conforms with the municipality's general plan.

12 SEC. 2. Section 56375.7 is added to the Government Code, to
13 read:

14 56375.7. (a) The commission shall determine a revenue
15 neutrality agreement, including the amount of property tax revenue
16 to be exchanged by the affected local agency pursuant to this
17 section. The commission shall notify the county auditor of the
18 proposal and the services that the annexing city will assume within
19 the territory to be annexed and identify for the auditor the existing
20 service providers within the area subject to the proposal.

21 (b) If the proposal would not transfer all of an affected agency's
22 service responsibilities to the proposed city, the commission and
23 the county auditor shall do all of the following:

24 (1) The county auditor shall determine the proportion that the
25 amount of property tax revenue derived by each affected local
26 agency pursuant to subdivision (b) of Section 93 of the Revenue
27 and Taxation Code bears to the total amount of revenue from all
28 sources, available for general purposes, received by each affected
29 local agency in the prior fiscal year. For purposes of making this
30 determination and the determination required by paragraph (3),
31 "total amount of revenue from all sources available for general
32 purposes" means the total amount of revenue which an affected
33 local agency may use on a discretionary basis for any purpose
34 and does not include any of the following:

35 (A) Revenue which, by statute, is required to be used for a
36 specific purpose.

37 (B) Revenue from fees, charges, or assessments which are levied
38 to specifically offset the cost of particular services and do not
39 exceed the cost reasonably borne in providing these services.

1 (C) Revenue received from the federal government which is
2 required to be used for a specific purpose.

3 (2) The commission shall determine, based on information
4 submitted by each affected local agency, an amount equal to the
5 total net cost to each affected local agency during the prior fiscal
6 year of providing those services that the annexing city will assume
7 within the area subject to the proposal, including the cost of
8 connecting residents to wastewater or drinking water services.

9 For purposes of this paragraph, “total net cost” means the total
10 direct and indirect costs that were funded by general purpose
11 revenues of the affected local agency and excludes any portion of
12 the total cost that was funded by any revenues of that agency that
13 are specified in subparagraphs (A), (B), and (C) of paragraph (1).

14 (3) The commission shall multiply the amount determined
15 pursuant to paragraph (2) for each affected local agency by the
16 corresponding proportion determined pursuant to paragraph (1)
17 to derive the amount of property tax revenue used to provide
18 services by each affected local agency during the prior fiscal year
19 within the area subject to the proposal. The county auditor shall
20 adjust the amount described in the previous sentence by the annual
21 tax increment according to the procedures set forth in Chapter 6
22 (commencing with Section 95) of Part 0.5 of Division 1 of the
23 Revenue and Taxation Code, to the fiscal year in which the new
24 city or district receives its initial allocation of property taxes.

25 (4) For purposes of this subdivision, in any county in which,
26 prior to the adoption of Article XIII A of the California
27 Constitution, and continuing thereafter, a separate fund or funds
28 were established consisting of revenues derived from the
29 unincorporated area of the county and from which fund or funds
30 services rendered in the unincorporated area have been paid, the
31 amount of property tax revenues derived pursuant to paragraph
32 (3), may, at the discretion of the commission, be transferred to the
33 annexing city over a period not to exceed 12 fiscal years following
34 the annexation. In determining whether the transfer of the amount
35 of property tax revenues determined pursuant to paragraph (3)
36 shall occur entirely within the fiscal year immediately following
37 the annexation or shall be phased in over a period not to exceed
38 12 full fiscal years following the annexation, the commission shall
39 consider each of the following:

1 (A) *The total amount of revenue from all sources available to*
2 *the annexing city.*

3 (B) *The fiscal impact of the proposed transfer on the transferring*
4 *agency.*

5 (C) *Any other relevant facts which interested parties to the*
6 *exchange may present to the commission in written form.*

7 *The decision of the commission shall be supported by written*
8 *findings setting forth the basis for its decision.*

9 (c) *If the proposal would transfer all of an affected agency's*
10 *service responsibilities to the annexing city, the commission shall*
11 *request the auditor to determine the property tax revenue generated*
12 *for the affected service providers by tax rate area, or portion*
13 *thereof, and transmit that information to the commission.*

14 (d) *The executive officer shall notify the auditor of the amount*
15 *determined pursuant to paragraph (3) of subdivision (b) or*
16 *subdivision (c), as the case may be, and, where applicable, the*
17 *period of time within which and the procedure by which the*
18 *transfer of property tax revenues will be effected pursuant to*
19 *paragraph (4) of subdivision (b), at the time the executive officer*
20 *records a certificate of completion pursuant to Section 57203 for*
21 *any proposal described in subdivision (a), and the auditor shall*
22 *transfer that amount to the new jurisdiction.*

23 (e) *An action brought by a city or district to contest any*
24 *determinations of the county auditor or the commission with regard*
25 *to the amount of property tax revenue to be exchanged by the*
26 *affected local agency pursuant to this section shall be commenced*
27 *within three years of the effective date of the annexation.*